

**From:** David Eberhard

**Subject:** Regulation DD - Overdraft/Bounce Protection Services

Date: Aug 05, 2004

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Proposal: Regulation DD - Truth In Savings  
Document ID: R-1197  
Press Release Date: 05/28/2004  
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Comments:

@@@Jennifer J Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Ave. NW  
Washington, DC 20551

RE: Docket No. R-1167-Truth in Savings

Dear Ms. Johnson,

Thank you for the opportunity to comment on the proposal to amend Regulation DD which implements the Truth in Savings Act. State Bank of Southern Utah is a medium size bank, with about \$375 Million in total assets, located in southwestern Utah.

Let me start by stating that State Bank of Southern Utah offers the "bounced-check protection" service referred to in the proposal, but does not aggressively market the service. Rather, State Bank has used the service to streamline the internal operations and give guidance to the bank personnel with responsibilities of approving overdrafts.

Prior to implementing our bounce protection service, bank officers had total discretion on whether or not to pay or return an overdraft item. This led to discrepancies in the way customers were treated from branch to branch and from day to day. By implementing the bounce protection service, customers have been given a specific amount for which the bank may pay items, taking the account overdraft. Much of the discretion has been taken from the bank officers. I believe this has provided a better approach and understanding to our customers of the overdraft system. In fact, I do not recall one instance where we have had a consumer complaint of this service since it has been implemented. Rather we have actually had letters in appreciation of the service.

With this introduction, I am writing to request that the Board withdraw this

proposal. I would also like to note that the Board in Docket No. R-1206 is requesting comment on regulatory burdens to financial institutions. This proposal would significantly increase the regulatory burden on financial institutions without providing any significant benefit to consumers.

The Board begins the proposal by stating concerns about bounce protection services. I question whether those concerns are genuinely in the interest of the individual consumer or rather in the interest of consumer advocacy groups who may not represent individual consumers. The proposal states that the Board believes that consumers would benefit from more uniform and complete information about the costs and terms of overdraft services. I disagree with the Board in this aspect. I believe financial institutions for the most part do what they can to provide adequate information to consumers, but in many cases it is the consumers who fail to use this information, such as opening their statements and reconciling them. Why would the Board impose onerous regulations on financial institutions when the problem may be with consumers who are failing to look out for themselves? In addition to the periodic statement that shows overdraft fees, each day an overdraft fee is incurred, the

bank sends out a notice to consumers informing them that their account is overdraft and what fees were charged to the account. A daily notice in addition to the periodic statement should be more than adequate to inform a consumer of costs associated with overdrafts.

To assist consumers in better understanding the costs associated with overdrawing their accounts, the Board is proposing to revise the requirements for providing cost disclosures on periodic statements. Specifically, the Board is proposing to require financial institutions to include the total amount of fees imposed for overdrafts and the total amount of fees for returned items for the statement period and for the calendar year to date. Institutions are already required by regulation to disclose the fees on the periodic statements, which they do. Consumers who regularly reconcile their accounts know of the fees including overdraft fees in aggregate. The only thing the aggregation of total fees for the statement period and calendar year to date would do is to provide shock value to the statement. This serves no other beneficial purpose to the consumer. Indeed the costs financial institutions will incur to make the required changes will far outweigh this very limited bene

fit to the consumer. Also note that costs incurred by financial institutions will be passed on to the consumer in some form.

The proposal states that the comment would be revised to reflect the proposed revisions to the regulation to clarify that overdraft fees and returned-item fees may not be grouped together as fees for insufficient funds. Again I disagree with this proposal in that it will be the cause of more confusion to consumers. If a consumer sees a fee for overdraft items and a separate fee for returned items, the consumer may mistakenly think there has been a double charge. Again, any perceived benefit to the consumer will not outweigh the costs banks will have to incur.

In conclusion, it appears the basis for the proposal is that the Board is concerned about the uniformity and adequacy of fees involved with overdrafts and returned items. I contend that the fees being reported are already uniform and adequate. Financial institutions are already uniformly disclosing the fees on periodic statements as required by Regulation DD. The information being provided to consumers is adequate, but it is the failure of consumers to use the information being provided that is causing the problems. Based on these facts I believe the Board does not need to issue additional regulations and request that the proposal be withdrawn.

Thank you.

David Eberhard  
State Bank of Southern Utah

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